

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION**

CASE NO.: 2:24-cv-06200

MICHAEL GRECCO PRODUCTIONS, INC.,

Plaintiff,

v.

DIFFERENT BY CHOICE CORPORATION,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff MICHAEL GRECCO PRODUCTIONS, INC. by and through its undersigned counsel, brings this Complaint against Defendant DIFFERENT BY CHOICE CORPORATION for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MICHAEL GRECCO PRODUCTIONS, INC. (“MGP”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute MGP's original copyrighted Works of authorship.

2. Michael Grecco Productions Inc. is a company formed by Michael Grecco ("Grecco"), an award winning commercial photographer noted for his iconic celebrity portraits. Grecco has had his images featured on magazine covers including Forbes, Times, Sports Illustrated and Wired. Grecco has been called “a master of light,” and is known for creating moody black and white portraits, often elaborately staged and lit to perfection.

3. Defendant DIFFERENT BY CHOICE CORPORATION (“InClub”) is the owner and publisher of InClub Magazine, a national print magazine and digital media publication of

millennial life and style. InClub began as a quarterly magazine and quickly became a monthly magazine that has a global reach of 2.7M people, consisting of 141,000 monthly unique viewers, and 42,000 social media followers.. At all times relevant herein, InClub owned and operated the internet website located at the URL <http://www.inclubmagazine.com> (the “Website”).

4. MGP alleges that InClub copied MGP’s copyrighted Works from the internet in order to advertise, market and promote its business activities. InClub committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of the InClub's business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. InClub is subject to personal jurisdiction in Pennsylvania.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, InClub engaged in infringement in this district, InClub resides in this district, and InClub is subject to personal jurisdiction in this district.

DEFENDANT

9. Different By Choice Corporation is a Pennsylvania Corporation, with its principal place of business at 155 East Godfrey Ave, P203, Philadelphia, Pennsylvania, 19120, and can be served at its principal place of business.

THE COPYRIGHTED WORKS AT ISSUE

10. The below table details the Copyright Titles, Registration Numbers and Registration Issue Dates of the works of intellectual property at issue in this case, one of which is shown below, and which are referred to herein as the “Works.” Copies of the Works are attached hereto as **Exhibit 1**. Copies of the Registration Certificates are attached hereto as **Exhibit 2**.

<u>Title</u>	<u>Registration Date</u>	<u>Registration Number</u>
19891201_Jackson_Janet_MGP_0002	July 07, 2010	VA 1-736-729
19891201_Jackson_Janet_MGP_0017	July 07, 2010	VA 1-736-729
19891201_Jackson_Janet_MGP_0019	July 07, 2010	VA 1-736-729



11. MGP registered the Works with the Register of Copyrights on July 7, 2010 as part of a group registration. The Group Registration was assigned registration number VA 1-736-729. The Certificate of Registration is attached hereto as **Exhibit 1**.

12. MGP is the owner of the Works by assignment from Michal Grecco Photography, Inc.

13. At all relevant times MGP was the owner of the copyrighted Works at issue in this case.

INFRINGEMENT BY INCLUB

14. InClub has never been licensed to use the Works at issue in this action for any purpose.

15. On a date after the Works at issue in this action were created, but prior to the filing of this action, InClub copied the Works.

16. On or about May 14, 2024, MGP discovered the unauthorized use of its Works on the Website in an article entitled “Maybe we should all apologize to Janet Jackson.” dated February 1, 2022.

17. InClub copied MGP's copyrighted Works without MGP's permission.

18. After InClub copied the Works, it made further copies and distributed the Works on the internet to promote the sale of goods and services as part of its online and print magazine business.

19. InClub copied and distributed MGP's copyrighted Works in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

20. InClub committed copyright infringement of the Works as evidenced by the documents attached hereto as **Exhibit 3**.

21. MGP never gave InClub permission or authority to copy, distribute or display the Works at issue in this case.

22. MGP notified InClub of the allegations set forth herein on August 28, 2024 and September 9, 2024. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

23. MGP incorporates the allegations of paragraphs 1 through **Error! Reference source not found.** of this Complaint as if fully set forth herein.

24. MGP owns valid copyrights in the Works at issue in this case.

25. MGP registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

26. InClub copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without MGP's authorization in violation of 17 U.S.C. § 501.

27. InClub performed the acts alleged in the course and scope of its business activities.

28. Defendant's acts were willful.

29. MGP has been damaged.

30. The harm caused to MGP has been irreparable.

WHEREFORE, the Plaintiff MICHAEL GRECCO PRODUCTIONS, INC. prays for judgment against the Defendant DIFFERENT BY CHOICE CORPORATION that:

a. InClub and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. InClub be required to pay MGP its actual damages and Defendant's profits attributable to the infringement, or, at MGP's election, statutory damages, as provided in 17 U.S.C. § 504;

c. MGP be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. MGP be awarded pre- and post-judgment interest; and

e. MGP be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

MGP hereby demands a trial by jury of all issues so triable.

Dated: November 19, 2024

Respectfully submitted,

/s/ Joseph A. Dunne
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